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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,031	07/02/2003	Mitsuzo Shida	88174	5856
24628	7590 01/24/2006		EXAMINER	
WELSH & KATZ, LTD			MULLIS, JEFFREY C	
120 S RIVERS	SIDE PLAZA			
22ND FLOOR			ART UNIT	PAPER NUMBER
CHICAGO, IL 60606			1711	
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DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Total MalLING DATE of this communication appears on the cover sheet with the correspondence address		Application No.	Applicant(s)				
Examiner Jeffrey C. Mullis  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extension of them may be evaluate under the provisions of 37 CPR 1.736(L), In owe with the cover sheet with the correspondence address — I HIS Operation from yet is specified above, the maximum statutory period valid apply and vit legits 18 (N) MONTHS from the mailing date of this communication for intermity and the mailing date of the communication to eccome ABANDONED (98 U.S.C. § 1.13):  1 HIS Operation from yet is specified above, the maximum statutory period valid pages and vit legits 18 (N) MONTHS from the mailing date of this communication.  2 HIS Operation from yet is specified and the mailing date of this communication, even 1 tunely find, may reduce any seared patient term adjustment. Set 37 CPR 1.73(th).  Status  1   Responsive to communication(s) filled on							
Juffrey C. Mullis   1711	Office Action Summary						
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercitions of this many be available under the provisions of 37 CFR 1:36(i). In no event, however, may a reply to timely filled  If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (8) MONTHS from the mating date of this communication.  Failur for my within the set or extended period for reply will. by stables, case the application become ABANDDED (36 U.S.C. § 133). Any reply received by the Office later than three months after the maling date of this communication, even if simily filled, may reduce sary seemed patient are algorisms.  Status  1) Responsive to communication (s) filled on  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-25, 31, 32, 35, 36 and 39-43 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  8) Claim(s) is are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The cath or declaration is objected to by the Examiner.  Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)							
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Editations of time may be available under the provided in 30° FRE 1.156(a). In a event, however, may a reply be timely filed after 50 K (6) MONTHS from the mailing date of this communication. It is a straight of the communication and the straight of the communication of the communication of the communication of the communication. It is a straight of the communication of the commun	• •						
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All previous rejections are hereby withdrawn.

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6, 14-16, 18, 20, 31, 32, 35, 36, 41, 42 and 43 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dey et al. (US 6,605,959).

Dey et al. disclose an adhesive composition for use in lamination containing INDOPOL (a polyolefinic isobutene copolymer having a small amount of 1-butene which is a liquid and therefore non pelletizable) melt blended with a grafted thermoplastic elastomer (KRATON FG-1901X) as well as the tackifier ARKON P-90. Note Example 1 and table 1. While it appears certain that INDOPOL is liquid and therefore unpelletizble, INDOPOL is less than 50% in example 1 and absent the presence of another polyolefinic non pelletizable polyolefin, the limitations of the claims would not be met. However, ARKON P-90

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is used in such amounts that more than 50% is present and as both ARKON and INDOPOL are used as tackifiers (column 4, lines 23-33) similar properties (ie both are assumed non pelletizable liquids) and therefore the ARKON alone is present in sufficient amounts to meet the limitations of the claims. Arguably however, the examiner may be incorrect and ARKON may be pelleted. However, to use INDOPOL at a level of greater than 50% as required by the claims would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention given that patentees teach the equivalence of ARKON and INDOPOL as tackifiers and use INDOPOL at such levels and in the expectation of adequate results absent any showing of surprising or unexpected results.

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Hogan (US 6,194,485), cited of interest discloses that INDOPOL materials have a molecular weight of only less than about 2300 at column 3, lines 33-50 (and thus expected to be liquids or semisolids and thus unpelletizable).

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Claims 5, 7-13, 17, 19, 21-25 and 39-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 11-8-05 have been fully considered but they are not persuasive. Applicant's remarks re pertain to their declaration which has not been received. If applicants declaration was previously filed they are requested to refile it along with post card receipt from the Office as proof of previous filing. Applicants statement in their remarks re the pellet form of ARKON P 90 if present in the declaration will be sufficient to overcome the rejection under 35 USC 102 but the examiner at present cannot say if the declaration will be sufficient to overcome the rejection under 35 USC 103.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis J Mullis Art Unit 1711

JCM

8-21-05

Jeffrey Mullis Primary Examiner Art Unit 1711